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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,070	10/10/2001	Eric Martinez	8053.015.00	4677

30827 7590 04/30/2003  
MCKENNA LONG & ALDRIDGE LLP  
1900 K STREET, NW  
WASHINGTON, DC 20006

EXAMINER

LAVARIAS, ARNEL C

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/973,070

Applicant(s)

MARTINEZ ET AL.

Examiner

Arnel C. Lavarias

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments to the specification of the disclosure in Paper No. 6, dated 3/12/03, are acknowledged and accepted.

### ***Response to Arguments***

2. The Applicants argue that Potash fails to teach or reasonably suggest an apparatus comprising the combination of elements of a service pipe and a flexible tube disposed inside the service pipe, the tube sealed at each end to an outside surface of the service pipe. The Examiner respectfully disagrees. Potash discloses the service pipe (See 10 in Figures 1a, 1b, 1c) and the flexible tubing disposed inside the service pipe (See 24 in Figures 1a, 1b, 1c). This flexible tubing is sealed at each end to an outside surface of the service pipe (See 20, 22, 24 in Figure 1c, also note the wye-fittings 16 and 18 of Figures 1a and 1b are integrated to the service pipe of Figure 1c). Although Figures 1a and 1b show the service pipe and wye-fittings being two separate pieces, Potash additionally discloses the service pipe and wye-fittings being constructed from the same piece, as shown in Figure 1c. The Examiner notes that although limitations relied upon in the Applicants' argument (i.e. wye-fittings being disposed between pipe sections) are not in the recited claims, this does not prevent the use of additional fittings and joints in the apparatus since all the recited limitations of Claim 1 are present in Potash. The Examiner also notes that the sealing structure disclosed by Potash is similar to the sealing structure

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disclosed in Figure 1 of the Applicants' disclosure, wherein a nipple and locking nut are used to seal the flexible tubing to the outside surface of the service pipe..

3. The Applicants argue that Beals et al. fails to teach or reasonably suggest an apparatus comprising the combination of elements of a service pipe; a flexible tube disposed inside the service pipe, the tube sealed at each end to an outside surface of the service pipe; and a fiber optic cable disposed inside the flexible tube. The Examiner respectfully disagrees. Beals et al. specifically discloses the service pipe (See 10 in Figure 3), the flexible tubing disposed inside the service pipe (See 8 in Figure 3), the tube sealed at each end to an outside surface of the service pipe (See 50, 114 in Figure 3); and a fiber optic cable disposed inside the flexible tube (See specifically paragraphs 0045 and 0072).
4. The Applicants argue that Beals et al. fails to teach or reasonably suggest the recited method steps of Claims 6 or 25. The Examiner respectfully disagrees, and directs the Applicants to paragraphs 0048-0072 of Beals et al. which discloses the various recited steps of Claims 6 and 25.
5. Claims 1-27 are again rejected as follows.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Potash (U.S. Patent No. 2002/0114595).

See the reasons as set forth in Pages 2-3 of the previous Office Action in Paper No. 5, dated 1/9/03.

8. Claims 1-14, 19-22, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Beals et al. (U.S. Patent Application No. 2002/0040731).

See the reasons as set forth in Pages 3-5 of the previous Office Action in Paper No. 5, dated 1/9/03.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 15-17, 23-24, 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beals et al.

See the reasons as set forth in Pages 5-7 of the previous Office Action in Paper No. 5, dated 1/9/03.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beals et al. in view of Klamm et al. (U.S. Patent No. 4756510).

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See the reasons as set forth in Pages 7-8 of the previous Office Action in Paper No. 5, dated 1/9/03.

*Conclusion*

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 703-305-4007. The examiner can normally be reached on M-F 8:30 AM - 5 PM EST.

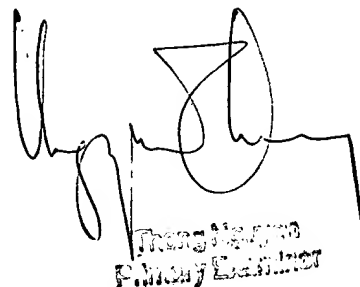
The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Arnel C. Lavarias  
April 28, 2003



Thomas J. Davis  
Patent Examiner